IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:- 03.04.2007

Coram

The Honourable Mr. Justice P. SATHASIVAM

and

The Honourable Mr. Justice S. TAMILVANAN

W.A. No.618 of 2004

1. State of Tamilnadu,
rep. by the Secretary to
Government,
Co-operation, Food and
Consumer Protection
Department,
Fort St. George,
Chennai - 9.

2. The Collector of Periyar District
at Erode. ... Appellants/Respondents

..Vs..

P. Rangasamy ... Respondent/Petitioner

Appeal Under cl.15 of Letters Patent to set aside the order dated 12.7.2000 passed in W.P. No.17052 of 1993 on the file of this Court to issue writ of Certiorari calling for the records of the respondents comprised in the order of the respondents 1 and 2 in G.O.Ms.No.493,Co-operation, Food & Consumer Protection Department dated 6.7.93 and Na.Ka.No.11741/91 M4 dated 26.10.91 respectively, and the consequential Memorandum issued by the 2nd respondent in Na.Ka.No.79824/93 K4 dated 12.8.93 and quash the said impugned order.

For Appellants : Mr. P. Subramanian,
Govt. Advocate
For Respondent : Mr. A.K. Kumarasamy

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JUDGMENT

(Judgment was delivered by P. SATHASIVAM, J.)

Aggrieved by the order of the learned Single Judge dated 12.7.2000 passed in W.P. No.17052 of 1993, the Secretary to the Government, Co-operation, Food and Consumer Protection Department and the Collector of Periyar District preferred the above writ appeal.

2. Heard the learned Government Advocate appearing for the appellants as well as the learned counsel appearing for the respondent.

3. According to the respondent herein, he is an agriculturist, having nearly 8 acres of land and engaged in personal cultivation. He used to cultivate chillies in his field and keep the same for the purpose of processing and selling in the market. He kept harvested product of chillies in a separate place in his house and on 24.1.1991, when he was away from his village, the Revenue Officials entered into his house and took away the entire chilly bags without any intimation or issuing seizure mahazar and on the orders of this Court in W.P. No.3180 of 1991, the entire 230 bags of chillies were directed to be released on furnishing immovable property security to the tune of Rs.50,000/- to the satisfaction of the Revenue Divisional Officer, Gobichettipayalayam.

4. Thereafter, an enquiry under Section 6-A of the Essential Commodities Act was conducted and by an order dated 26.10.1991, the District Collector, after finding guilty of illegal possession of chilly bags, ordered confiscation of 15% of 2025 kilograms of chillies seized by the Authorities. Against the said order, the writ petitioner preferred an appeal under Section 6-C of the Essential Commodities Act before the first respondent, i.e. the Government of Tamil Nadu. The first respondent, by an order dated 6.7.1993, confirmed the order of the second respondent in the writ petition and dismissed the appeal. Aggrieved by the said order, the writ petitioner filed a writ petition before this Court.

5. Learned Judge, by an order dated 12.7.2000, after finding that the writ petitioner being the first Offender and there is no intention to store the chillies, set aside the orders of the respondents therein, confiscating 15% of the seized chillies.

6. Before us, it was pointed out that first of all, the

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writ petitioner was not doing any business and he is an agriculturist and after harvesting chillies from his lands roughly about 8 acres, he stored the same in his house anticipating higher price. The perusal of the order of the learned Judge shows that after accepting the stand taken by the writ petitioner and finding that he is not a habitual Offender, a lenient view had been taken, by setting aside the orders passed by both the respondents therein.

7. Taking note of the fact that the alleged incident occurred in the year 1991 and also the fact that the learned Judge passed an order, taking a lenient view even in 2000, considering this factual aspects and length of time, we are not inclined to interfere with the same at this juncture. On the other hand, we are in agreement with the conclusion arrived at by the learned Judge. Consequently, the writ appeal fails and the same is dismissed. However, there is no order as to costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ssa.

1.The Secretary to Government of Tamil Nadu
Co-operation, Food and
Consumer Protection Department,
Fort St. George, Chennai - 9.

2. The Collector of Periyar District
at Erode.

+1cc to Mr.A.K.Kumarasamy, Advocate Sr 21316

+1cc to Govt. Pleader Sr 21373

KLT (CO)
km/16.4.

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